

Court of Appeals, State of Michigan

ORDER

Martha Zonca v Michigan Educational Credit Union

Docket No. 261114

LC No. 04-438226-NO

Brian K. Zahra
Presiding Judge

Helene N. White

Christopher M. Murray
Judges

The Court orders that the motion to reply to the answer is GRANTED.

In lieu of granting leave to appeal, we REVERSE the circuit court's order of February 5, 2005 and remand for change of venue to Livingston County at plaintiff's cost. MCR 2.223.

Venue in this action, which includes claims sounding in tort, is governed by MCL 600.1629. The primary consideration in determining venue is the county in which the original injury occurred. MCL 600.1629(1)(a), (b). The county where the original injury occurred is the county where the injury transpires. *Karpinski v St John Hosp-Macomb Ctr Corp*, 238 Mich App 539, 546; 606 NW2d 45 (1999). An injury is a wrong or damage done to another, *id.* at 543, and "[t]he wrong is done when the plaintiff is harmed rather than when the defendant acted." *Boyle v General Motors Corp*, 468 Mich 226, 231 n 5; 661 NW2d 557 (2003). Defendants' allegedly wrongful actions occurred in Wayne and Livingston Counties, but the injury caused thereby was the emotional distress suffered by plaintiff from receipt of the dunning calls and being sued on the debt, as well as monetary damages in the form of the costs incurred in defending against the collection action. Those injuries occurred in Livingston County. The fact that the credit union made dunning calls to plaintiff from its Wayne County office is irrelevant. The focus is on the plaintiff's injury, not the defendant's wrongful act, and defendant's phone calls did not result in injury until they were received by plaintiff at her home in Livingston County. *Anthony v Forgrave*, 126 Mich App 489, 495; 337 NW2d 546 (1983).

If both defendant have a place of business or conduct business in Livingston County or one defendant is a corporation and has its registered office in Livingston County, venue is properly laid in that county because that it where the original injury occurred. MCL 600.1629(1)(a); *Massey v Mandell*, 462 Mich 375, 382-383; 614 NW2d 70 (2000). If one county does not satisfy the criteria under § 1629(1)(a), venue is still properly laid in Livingston County because the original injury occurred there and plaintiff resides there. MCL 600.1629(1)(b)(i). Therefore, the trial court clearly erred in denying defendants' motion for change of venue under MCR 2.223. *Massey, supra* at 379.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUL 07 2005

Date

Sandra Schultz Mengel
Chief Clerk